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**UNITED STATES DEPARTMENT OF TRANSPORTATION
BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

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In the Matter of

Swift Transportation Co., Inc.
(USDOT NO.: 54283)

Petitioner

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FMCSA Dkt. No. 16743-2

**PETITION FOR STAY OF EFFECTIVE DATE OF SAFETY RATING
PENDING REVIEW PURSUANT TO 49 C.F.R. § 385.15**

COMES NOW Swift Transportation Co., Inc. (Swift) and petitions the Federal Motor Carrier Safety Administration to stay the effective date of a proposed conditional safety rating of Swift until the agency has acted upon Swift's petition for administrative review of the proposed rating, and in support thereof states the following:

1. There is a substantial likelihood that Swift will prevail on the merits of its petition for administrative review. Swift's petition establishes that the proposed conditional rating was determined by the application of methods that were not adopted in conformance with the requirements of the Administrative Procedure Act as explicated in several decisions of the United States Court of Appeals for the District of Columbia Circuit. The proposed rating is invalid.

2. Swift has been advised that the proposed conditional rating will become final on December 19, 2003. Swift would suffer irreparable harm if its petition for a stay is not granted. Swift is self-insured. A conditional rating would require Swift to obtain insurance. The cost of insurance, if obtainable, is astronomical. Furthermore, many of Swift's contracts with its customers require that the company maintain a satisfactory

rating. Of far greater concern is the demonstration by Swift's largest competitor to act in a predatory manner should this petition be denied.

On November 24, 2003 the following e-mail was sent by Schneider National, Inc. to a large number of financial\stock analysts. Swift has heard that some of its customers also received it.

Subject: Swift DOT safety problem – "Conditional Status"

To All:

About ten days ago I mentioned to several of you that Swift was rumored to be on "Conditional" safety status by the USDOT. The rumor has come true. See the bottom of the USDOT Carrier Snapshot reproduced below.

This is what we know about such a rating. It comes with a period for corrective action (45 days?). If successful, the company is put back into satisfactory status. If not the carrier could be labeled unsatisfactory. That means they would not be licensed to act as a common carrier. In the meantime, many customer contracts have a backout clause (Wal-Mart for instance) that is activated by a conditional rating. So Swift is in deep do-do right now.

We have also heard rumors that Mexican partner carriers to Swift are commandeering trailers in retribution for unnamed sins.

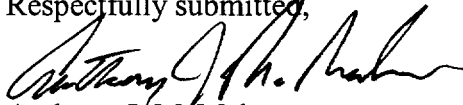
It is well-know (sic) in the industry that Swift is the "cowboy" of the large carriers. It looks like they have strayed over the line this year.

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Immediately after that message was sent, and after Swift's safety rating appeared briefly on SafeStat as conditional, Swift's stock price plummeted. The company lost more than \$237 million in market capitalization.

3. Granting this petition for a stay will do no harm, and, indeed, will serve the public interest. Swift's accident rate is well within FMCSA's satisfactory range. It actually improved since a compliance review in 2001. Swift's safety statistics, maintained on the FMCSA's Safer web site shows the company to have better operating safety records than many comparable carriers that have a satisfactory rating from the FMCSA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony J. McMahon", written over the typed name.

Anthony J. McMahon
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